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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,224	02/26/2004	Burkhard Kuhls	080437.53236US	2832

23911   7590   03/21/2012
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EXAMINER
JOHNSON, CARLTON

ART UNIT	PAPER NUMBER
2436	

NOTIFICATION DATE	DELIVERY MODE
03/21/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/786,224	KUHLS, BURKHARD
	Examiner	Art Unit
	CARLTON JOHNSON	2436

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>07 March 2012</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

<u>NO NOTICE OF APPEAL FILED</u>

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires _____ months from the mailing date of *the prior Advisory Action* or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

       Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE <u>FIRST</u> RESPONSE TO APPLICANT'S <u>FIRST</u> AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) or (c) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   b) ☐ They raise the issue of new matter (see NOTE below);

   c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

       NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): (a) ☐ will not be entered, or (b) ☒ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
     <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

<u>STATUS OF CLAIMS</u>

14. The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: .

   Claim(s) objected to: .

   Claim(s) rejected: .

Claim(s) withdrawn from consideration: .

/Nasser Moazzami/ Supervisory Patent Examiner, Art Unit 2436	/Carlton V. Johnson/ Examiner, Art Unit 2436

The amendments to claims will be considered as entered.

Examiner Position:
    The arguments were not persuasive in overcoming the currently rejected claims.

Response to Arguments

1.   The certificates are not the same since each certificate is used to authorize a different entity.   The Examiner is interpreting a certificate as a mechanism to be used to authorize a specific entity such as a set of software or a vehicle control unit. Schmidt discloses the capability for the usage of multiple certificates that can be used to authorize multiple entities such as a control unit and/or software for that particular control unit. (see Schmidt paragraph [0017]: distribute various certificates to different persons, so that an importation of software can be implemented only jointly; [0018]: several certificates are used; the key of each additional certificate can be checked; by means of the key in the last certificate, the signature of the software itself is finally checked)
    The Specification on page 6 and paragraph [0021] discloses that the software signature site is the manufacturer of the software and that the manufacturer of the software is also the manufacturer of the control unit.   The software signature site certificate authorizes the usage of the software for the vehicle. Schmidt discloses a certificate that authorizes the usage of software for a vehicle control unit. (see Schmidt paragraph [0017]; [0018]: several certificates are used; by means of the key in the last certificate, the signature of the software itself is finally checked)
    The Specification in paragraphs [0007], [0008] discloses that the trust center (or control unit) certificate utilizes the secret key of the control unit as a signature key.   Schmidt discloses a certificate that uses the secret key of a vehicle control unit as a signature key. (See Schmidt paragraph [0007]; [0008]: certificate generated by using secret key of control entity) Schmidt discloses that the signature of a certificate (trust center certificate) is formed and utilizing a signature of the pertaining secret key of the control unit. (see Schmidt paragraph [0019]: signature checked must been formed by secret key (control unit))
    The Specification on page 3, paragraphs [0010], [0012] discloses that the clearing code certificate contains an identifier (i.e. such as a serial number) and the capability to restrict usage (authentication for the certificate) to a particular control entity. In other words, the clearing code certificate authorizes a particular control unit for usage with the indicated software. Schmidt discloses that the software has been provided for a particular control unit (i.e. such as the indicated by the vehicle specific information).   Schmidt discloses that a specific signature attached to a particular certificate discloses an analogous clearing code type certificate that authorizes the usage of a specific control unit based on the vehicle specific information. (Schmidt paragraph [0026], lines 1-15: the signature depends on the vehicle-specific information; a control unit will only accept the signature if the certificate and the signature were recognized as unobjectionable (the signature depends on the vehicle specific information))

2.   Schmidt discloses multiple certificates used to authorize different entities. Schmidt discloses a certificate used to authorize the usage of software (software signature site certificate). Schmidt discloses a certificate that indicates a specific control unit (clearing code site certificate).   And, Schmidt discloses a secret key of a control unit for a vehicle (trust center certificate).   Schmidt discloses the three certificates analogous to the indicated three certificates.

3.   Schmidt discloses generating a certificate and sending the public key along with a request to sign the certificate. And, Schmidt discloses signing the certificate using a private key of a trust center. Schmidt discloses that a trust center can be the same as a control unit for a vehicle. (see Schmidt paragraph [0059], lines 6-10: generates key pair and sends public key with certificate request; paragraph [0060], lines 1-4: trust center (control unit) generates certificate, signs by means of secret key (trust center) and sends to certificate holder; paragraph [0012], lines 6-9: trust center analogous to vehicle, control unit))
    Schmidt discloses signing software before the software is imported or loaded into a vehicle control unit. Schmidt discloses that the software is signed with a private (private) key. (see Schmidt paragraph [0014], lines 1-6: sign software to be imported into the control unit, by means of the second (private) key of the pair of certificate keys)

4.   In conclusion, Schmidt discloses multiple certificates used to authorize different entities. Schmidt discloses a certificate used to authorize the usage of software (software signature site certificate). Schmidt discloses a certificate that indicates a specific control unit (clearing code site certificate).   And, Schmidt discloses a secret key of a control unit for a vehicle (trust center certificate).   Schmidt discloses the three certificates analogous to the indicated three certificates.